

CITY OF SAN ANTONIO

Department of Aviation



REQUEST FOR PROPOSAL ("RFP")

for

Lease and Operate Airport News & Gift Concession in Terminals 1 and B RFP-09-042-TC

Release Date: July 26, 2009
Proposals Due: October 13, 2009

This solicitation has been identified as High-Profile.

Notice Regarding Prohibition on Campaign or Officeholder Contributions for Individuals and Entities Seeking High-Profile Contracts. Under Section 2-309 of the Municipal Campaign Finance Code, the following are prohibited from making a campaign or officeholder contribution to any member of City Council, candidate for City Council or political action committee that contributes to City Council elections from the 10th business day after a contract solicitation has been released until 30 calendar days after the contract has been awarded:

1. Legal signatory of a high-profile contract;
2. Any individual seeking a high-profile contract;
3. Any owner or officer of an entity seeking a high-profile contract;
4. The spouse of any of these individuals; and
5. Any attorney, lobbyist or consultant retained to assist in seeking contract.

A high-profile contract cannot be awarded to the individual or entity if a prohibited contribution has been made by any of these individuals during the "black out" period.

Table of Contents		
Section		Page Number
I.	Background	3
II.	Scope of Services	7
III.	Concession Agreement	10
IV.	Pre-Submittal Conference	13
V.	Response Requirements	14
VI.	Amendments to RFP	17
VII.	Submission of Proposals	17
VIII.	Restrictions on Communication	18
IX.	Evaluation Criteria	20
X.	Award of Contracts and Reservation of Rights	22
XI.	Performance Bond	24
XII.	Schedule of Events	25
Response Attachments		
Response Attachment A	Respondent Proposal	26
Response Attachment B	Discretionary Contracts Disclosure Form	35
Response Attachment C	Litigation Disclosure Form	36
Response Attachment D	DBE/ACDBE Forms	38
Response Attachment E	Signature Page	42
Response Attachment F	Proposal Checklist	44
RFP Exhibits		
RFP Exhibit A	General Site Plan	46
RFP Exhibit B	Space Locations & Dimensions	46
RFP Exhibit C	Design Criteria Manual	46
RFP Exhibit D	DBE/ACDBE Program Overview & Requirements	47
RFP Exhibit E	Insurance Requirements	52
RFP Exhibit F	Indemnification Requirements	56
RFP Exhibit G	Proposal Bond Format Sample	58
RFP Exhibit H	Lease and Concession Agreement Draft	60

I. BACKGROUND

The City of San Antonio, Department of Aviation (“City”) invites the submission of proposals from experienced and qualified firms to operate a news & gift concession at the San Antonio International Airport (“SAT”). This Request for Proposal (“RFP”) offers one (1) news & gift concession opportunity at the Airport comprised of three (3) spaces within Terminal 1 and three (3) spaces within Terminal B for a combined total of six (6) spaces.

The goals of the SAT concession program are to: (1) provide first-class service and a broad variety of quality food and merchandise to travelers and Airport users; (2) provide enhanced quality and value to Airport consumers; (3) provide innovative food and beverage, retail, personal and business services concepts with a broad customer appeal, (4) increase the friendliness and convenience of the Airport to passengers and visitors while enhancing the image of the City; (5) provide business opportunities for disadvantaged business enterprises; (6) promote store concepts, themes and products identified with San Antonio; and (7) optimize concession revenues for SAT.

A. Airport Information

1. Overview

Owned and operated by the City of San Antonio, SAT serves over 8 million airport users annually, including passengers, employees and visitors. The Department of Aviation strives to run a safe and efficient Airport System while reflecting the unique, friendly character of San Antonio. Currently SAT is comprised of two terminals connected by an outside walkway. Terminal 1 is a 360,000 square foot terminal building featuring 16 passenger loading gates and Terminal 2 consists of a 205,000 square foot terminal building featuring 8 passenger loading gates. Terminal B – which will replace Terminal 2 – is under construction with an anticipated opening of November 2010

The following 13 scheduled passenger airlines currently operate from SAT and provide direct service to more than 70 cities within domestic and international markets including Mexico:

Terminal 1	Terminal 2
<ul style="list-style-type: none"> • Aerolitoral • AirTran • Delta/Northwest • Frontier • Mexicana • Southwest • United • US Airways* 	<ul style="list-style-type: none"> • American • Continental

*US Airways relocated to Terminal 1 as of June 2009

The Federal Aviation Administration (FAA) classifies SAT as a medium hub airport. The airlines operate over 130 daily scheduled departures. In 2008 there were 4 million enplanements at SAT, including 88,666 international enplanements primarily to Mexican cities.

2. Terminal 1

- a. Terminal 1 is comprised of five sections: Pre-Security, North Concourse, South Concourse, Central, and Baggage Claim.

- 1.) Pre-Security section includes two retail, one financial institution and one food/beverage concessions:

Retail Concession	Food/Beverage Concession
<ul style="list-style-type: none"> Alamo Extra News & Gifts Marcy's Travel Center 	<ul style="list-style-type: none"> Starbuck's Coffee

Financial Institution
<ul style="list-style-type: none"> Generations Federal Credit Union

- 2.) North Concourse has one retail and two food/beverage concessions:

Retail Concession	Food/Beverage Concession
<ul style="list-style-type: none"> Alamo Extra News & Gifts 	<ul style="list-style-type: none"> Blimpie's Subs George Gervin's Sports Bar

- 3.) South Concourse has two retail and one food/beverage concessions:

Retail Concession	Food/Beverage Concession
<ul style="list-style-type: none"> Alamo Extra News & Gifts International Duty Free 	<ul style="list-style-type: none"> Alamo City Microbrewery

- 4.) Central section consists of four retail, one service, two combination and six food/beverage concessions:

Retail Concession	Food /Beverage Concession
<ul style="list-style-type: none"> Brookstone Stars of San Antonio In Motion Entertainment Natalie's Candy Bar 	<ul style="list-style-type: none"> Las Palapas Mexican Restaurant Famous Famiglia Pizza Creative Croissants McDonald's Raising Cane's Chicken Fingers Dunkin Donuts

Retail/Food/ Beverage Combination Concession	Service Concession
<ul style="list-style-type: none"> Simply Books/ Starbuck's Coffee Vino Volo 	<ul style="list-style-type: none"> Shannon Smith's Shoe Shine

- b. Terminal 1 contains a total of 16 gates: Southwest Airlines and US Airways serve the North Concourse; AirTran, Delta/Northwest, and United serve the South Concourse; with Frontier, Mexicana and Aerolitoral serving the Central section.

Terminal 1 Statistics

Departing Passengers (2008)	2.7 million
Primary Airline Carriers	Aerolitoral, AirTran, Delta/Northwest, Frontier, Mexicana, , Southwest, United
No. of Gates	16
No. of Food Concessions	12
Food Concession Sq. Ft.	13,545
2008 Food Sales	\$10.9 million
No. of Retail & Services Concessions	12
Retail & Services Sq. Ft.	12,578
2008 Retail & Services Sales	\$9.6 million

3. Terminal 2

- a. Terminal 2 is comprised of three sections: Pre-Security, Post-Security Food Court and the Gate Area.

- 1.) Pre-Security Section consists of one retail and one food/beverage concessions:

Retail Concession	Food/Beverage Concession
<ul style="list-style-type: none"> • Alamo Extra News & Gifts 	<ul style="list-style-type: none"> • Cinnabon

- 2.) Post-Security Food Court area includes three retail and three food/beverage concessions:

Retail Concession	Food /Beverage Concession
<ul style="list-style-type: none"> • Native Texan • Alamo Books & Café • Never Too Late Power Port 	<ul style="list-style-type: none"> • Famous Famiglia Pizza • McDonald's • Quizno's

- 3.) The Gate Area has two retail and three food/beverage concessions:

Retail Concession	Food /Beverage Concession
<ul style="list-style-type: none"> • Texan Accent • Alamo Extra News & Gifts 	<ul style="list-style-type: none"> • Rosario's Mexican Restaurant • Starbuck's Coffee • Freshens

- b. Terminal 2 has a total of 8 gates served by American Airlines and Continental. (Note: US Airways moved to Terminal 1 in June 2009. Departing passenger statistics for 2008 include US Airways).

Terminal 2 Statistics

Departing Passengers (2008)	1.4 million
Primary Airline Carriers	American, Continental, US Airways
No. of Gates	8
No. of Food Concessions	8
Food Concession Sq. Ft.	5,529
2008 Food Sales	\$5.2 million
No. of Retail & Services Concessions	8
Retail & Services Sq. Ft.	3,823
2008 Retail & Services Sales	\$3.9 million

B. Enplanement Data

Year	Terminal 1	Terminal 2	Total
2004	2,306,814	1,187,130	3,493,944
2005	2,302,080	1,319,966	3,622,046
2006	2,511,554	1,486,893	3,998,447
2007	2,559,255	1,448,420	4,030,571
2008	2,722,530	1,443,130	4,167,440

C. Passenger Characteristics

Respondents should understand that airport retail environments present concession operators with unique challenges that do not exist in a typical shopping center or retail setting. Listed below are some of the key factors that may affect concession operations at the San Antonio International Airport (SAT):

1. Passengers have limited time to spend shopping and dining. Generally, their first consideration is clearing security and locating their departure gate.
2. Facilities must be open 365 days a year with operating hours and staffing levels that support passenger activity at the Airport. Current SAT operating hours are from 6:00 a.m. to 9:00 p.m. daily. However, some locations may be required to open earlier or stay open later, at the sole discretion of the City. Food providers serving breakfast may be required, at the sole discretion of the City, to adjust their opening time to coincide with the opening of the Transportation Security Administration (TSA) checkpoints, which open at 4:30 a.m.
3. Flight delays sometimes occur due to weather conditions and similar events. To accommodate passengers, concession operations must be able to quickly extend operating hours (e.g. - stay open later, add staff, maintain sufficient inventory levels, etc.).

4. Passengers often travel across various time zones requiring restaurants to provide comprehensive menus.
5. Everyone assigned to work at the Airport is considered an ambassador of the City and San Antonio International Airport; thus, employee training and superior customer service are essential.
6. All employees must pass a TSA mandated security background check and be properly badged.
7. The San Antonio International Airport is a non-smoking facility. Employees and passengers are not allowed to smoke within the terminals.

D. Delivery and Warehousing Logistics

1. Delivery and restocking hours are to be scheduled by the City so that they do not conflict with peak traffic times nor interrupt SAT operations. Concessionaires must develop logistic programs within the parameters of Airport and security regulations while maintaining sufficient inventory at their respective store(s).
2. The logistics warehouse consisting of both dry and refrigerated storage is located under Terminal 1 with dry storage in Terminal B. Concessionaires and their vendors are escorted to the loading dock where they will unload and place the delivered goods into the appropriate storage unit. Tenants are to utilize the freight elevator for transporting supplies from the logistics warehouse to their space via the vendor's lane. Prior to entering the sterile area and proceeding to their prospective space(s), Transportation Security Administration (TSA) must inspect/screen the Concessionaire's supplies. Once authorization to proceed has been granted, the Concessionaire may continue toward their leased space.

II. SCOPE OF CONCESSION SERVICES

A. Concession Space

This RFP offers one (1) concession opportunity, comprised of the six (6) spaces listed in the following table:

Space/Location	Area (sq. ft.)	Facility Type	Merchandising Plan
Terminal 1 #140	1,048	In-Line	News & Gift
Terminal 1 #154	1,074	In-Line	News & Gift
Terminal 1 #178	1,351	In-Line	News & Gift
Terminal B #TS-201	1,201	In-Line	News & Gift
Terminal B #TS-206	663	In-Line	News & Gift
Terminal B #TS-101	1,140	In-Line	News & Gift / Café

A general site plan of the Airport is attached as RFP Exhibit A. Location and dimensions of each offered space are illustrated in RFP Exhibit B. Note: The locations and sizes of the offered concession spaces are estimates and subject to change at any time without liability to the City. In addition, the City reserves the right to modify the concession spaces in accordance with the terms of the Lease and Concession Agreement.

All available spaces will be equipped with utilities as set forth in RFP Exhibit C - Design Criteria Manual. Proposed improvements and/or additions to the space are at the sole expense of the Selected Respondent and are subject to approval by the City of San Antonio, Aviation Department.

B. Merchandise Concepts:

To assist the Respondents in developing their proposal, a brief description of appropriate merchandise concepts is provided below. The description is intended to provide examples of the types of merchandise that may be offered within each of the news & gift spaces. The City is committed to developing an innovative concessions program that incorporates the highest level of quality in a unique shopping environment. Specific guidelines and restrictions for each category are included in the description.

News & Gift - Four (4) Spaces: Terminal 1 #140, Terminal 1 #154, Terminal 1 #182, Terminal B #TS-201 and Terminal B #TS-206

The offered locations are intended for the sale of news and gift items, including:

- Newspapers
- Magazines
- Periodicals
- Greeting Cards
- Stationery
- Postcards
- Limited Selection of Books

The following merchandise categories may also be offered for sale:

- Health and Beauty Items
- Non-Prescription Drugs
- Pre-Packaged Snacks
- Pre-Packaged Candy
- Pre-Packaged Chewing Gum
- Chilled Bottled Water
- Chilled Soft Drinks
- Texas souvenirs
- Apparel
- Travel accessories
- Assorted gifts and toys

Note: Souvenirs, apparel, travel accessories, and gifts and toys may not exceed 20% of the total merchandise mix offered within a single concession space.

Specialty retail concepts will not be considered for these locations.

News & Gift / Café – Terminal B #TS-101

The offered locations are intended for the sale of news and gift items, including:

- Newspapers
- Stationery
- Postcards
- Magazines
- Greeting Cards
- Limited Selection of Books
- Periodicals

The following merchandise categories may also be offered for sale:

- Health and Beauty Items
- Chilled Soft Drinks
- Non-Prescription Drugs
- Texas souvenirs
- Pre-Packaged Snacks
- Apparel
- Pre-Packaged Candy
- Travel Accessories
- Pre-Packaged Chewing Gum
- Assorted Gifts and Toys
- Chilled Bottled Water

Note: Souvenirs, apparel, travel accessories, and gifts and toys may not exceed 20% of the total merchandise mix offered within a single concession space.

The City also intends for the Selected Respondent to offer for sale freshly prepared and made-to-order coffee and coffee-based drinks, tea and tea-based drinks, and a selection of freshly prepared pastries, sandwiches, salads and other food items as may be proposed by the Selected Respondent. Respondents should incorporate some café seating within the Premises. Alcoholic beverages may **not** be sold.

C. Minimum Qualifications

The City has established the following Minimum Qualifications for the offered spaces. Respondents who do not meet **all** of the Minimum Qualifications defined in this section will not be considered for award. The City, in its sole discretion, will determine if a Respondent meets the qualifications and will base its decision on the information included in the Respondent's proposal submittal as well as through its own investigations.

Respondents must possess the following:

1. Minimum of three (3) years continuous experience, within the last five (5) years, to include but not limited to, ownership, management and/or operation of a retail business that:
 - a. is a similar concept to the proposed concept; and
 - b. has produced minimum average annual sales of \$250,000.00 per unit over the three-year period.
2. Respondents must not be in default or arrearage under any previous or existing contract(s) with the City, State, or any other State of Texas political subdivision.

3. The City reserves the right to disqualify any Respondent (including any of Respondent's owners, subcontractors, sublessees or suppliers) that has pending litigation, claims or debt with the City, which may adversely affect the ability of the parties to work efficiently and effectively under the contract contemplated by the RFP.
4. Respondent, including a majority interest of joint venture partner(s) as appropriate, must provide evidence with proposal submittal, that it meets the Minimum Qualifications.

D. Multiple Proposals

1. Respondent may not submit more than one proposal and must include all offered locations within their proposal. In the event that a Respondent submits more than one proposal utilizing a different name(s) or is found to have an ownership interest in more than one Respondent, said proposals will be deemed non-responsive and eliminated from further award consideration. Exceptions shall include: a) an entity or individual with a minority interest in more than one respondent or b) an entity or individual that subleases with more than one respondent. This Restriction is not intended to preclude responses from a joint venture, licensee or subleases.
2. The intent of the City is to award all offered locations to a single respondent. However if deemed in the best interest of the City, the City reserves the right to (may) award one or more locations to multiple respondents.

III. CONCESSION AGREEMENT

This RFP, and all exhibits, attachments and addenda thereto, does not constitute a contract between the City and any entity or individual, a commitment by the City to accept concession services from any entity or individual, or a commitment by any entity or individual to provide concession services to the City. The concessions shall be performed only under the terms and conditions of the fully executed and delivered Lease and Concession Agreement ("Agreement") by and between the City and the Selected Respondent.

The following summarizes some of the key terms and conditions of the offered concessions that are to be incorporated in the Agreement. This summary is not intended to be a complete description of the Agreement. Prospective respondents are advised to thoroughly review the Form of Agreement (RFP Exhibit H) to gain an understanding of the City's expectations regarding the terms and conditions of the offered concession. Unless defined elsewhere in this RFP, capitalized terms have the same meaning as in the Form of Agreement.

1. Term of Agreement

The Agreement will become effective and binding upon execution by the City, but not less than 10 days after City Council approval. The Term for the offered locations will commence on the date Terminal B opens for scheduled airline activity (Date of Beneficial Occupancy) and shall expire at the end of the 10th Lease Year (subject to the terms and conditions of the Agreement).

At this time, the City anticipates that the locations included in this RFP in Terminal B will be delivered to the Selected Respondent on or about July 1, 2010 or earlier as construction dictates, subject to the terms and conditions of the Agreement. The City anticipates that

Terminal B will open for scheduled airline activity on or about November 1, 2010. All dates related to the delivery of space and opening of Terminal B are subject to change without liability to the City and its contractors. If the Terminal B concession locations are not open for business as of the opening of Terminal B for scheduled airline activity, then the City may assess a late opening fine at the rate of \$500 per day, per location until the location opens to the public for business.

The City anticipates that the Terminal 1 locations included in this RFP will be delivered to the Selected Respondent on December 1, 2011. Prior to delivery of the Terminal 1 Premises, the Selected Respondent will be required to submit to the Aviation Director for approval a construction and facility opening schedule that provides, to the maximum extent feasible, for continuous service to the traveling public in all parts of the Terminal 1 (“Development Plan”). Temporary facilities may be required at certain times and locations during the tenant construction period. The City will require each concession location included in the Terminal 1 Premises to be substantially improved and open for business in accordance with the Development Plan. If a particular location is not open for business in a timely manner, the City may assess a late opening fine at the rate of \$500 per day, per location until the location opens to the public for business.

2. Compensation to the City

In consideration of the rights and privileges to be granted to the Selected Respondent by the City, the Selected Respondent will pay to the City, on an annual basis, Rental equal to the greater of (1) the Minimum Annual Guaranteed Rent (“MAG”) or (2) the Percentage Rent, in accordance with the terms of the Agreement.

a. Minimum Annual Guaranteed (MAG) Rent

- i. The MAG will commence as of the date Terminal B opens for business, but not less than ninety (90) days after the City delivers the Terminal B Premises to the Selected Respondent. However, from the Commencement Date through the completion of the Development Plan, the City will waive the pro-rata share of MAG (based on floor area) attributable to any portion of the Terminal 1 Premises that (a) has not been reconstructed in accordance with the Development Plan or (b) is under construction in accordance with the Development Plan.
- ii. Respondent must specify the MAG to be paid in each of the first five Lease Years of the term on Form 1 (Compensation Schedule) of Response Attachment A. Please specify total proposed MAG without consideration of any MAG waivers that may result from deferred delivery and/or construction of Terminal 1 locations.
- iii. MAGs proposed for the second through fifth Lease Years must not be less than the MAG proposed for the previous Lease Year.
- iv. The MAG for Lease Years six through ten are not proposed, and shall be equal to 80% of the Percentage Rent earned during the previous Lease Year, but not less than the MAG for the first Lease Year (without consideration of any MAG waivers that may result from deferred delivery and/or construction of Terminal 1 locations).

b. Percentage Rent

Percentage Rent will equal the product of the Percentage Fee Rate(s), as proposed by the Selected Respondent, multiplied by Gross Revenues. Respondents must specify the Percentage Fee Rate(s) to be paid during each year of the Term on Form 1 (Compensation Schedule) of Response Attachment A. Respondents may propose, at their discretion, multiple Percentage Fee Rate(s) by revenue tier or product category

3. **Other Fees**

a. Marketing Fee

The Selected Respondent will pay a Marketing Fee equal to one-half of one percent (0.5%) of Gross Revenues for the purpose of advertising, publicity, promotional materials, events, directories, customer service training and other activities appropriate for marketing the concessions program at the Airport.

b. Common Area Maintenance (CAM) and Trash Removal Fees

The Selected Respondent will pay CAM and/or Trash Removal Fees equal to its proportionate share of the CAM and/or trash removal costs as set forth in the Agreement.

c. Taxes, License and Permit Fees

The Selected Respondent is solely responsible for the timely payment of all appropriate taxes, license and permit fees that may be levied by City, County, State, Federal governments or agencies thereof.

4. **Capital Investment and Improvements**

Selected Respondents are responsible for tenant improvements, or cause its subtenant(s) to be responsible for all tenant improvements of the Premises. The Agreement will include a provision that the minimum initial capital investment in the Premises (to include leasehold improvements; fixtures, furnishings and equipment; plus design and engineering costs, not to exceed 15% of construction costs) will total at least 95% of the amount specified in the Selected Respondent's proposal. The City requires a minimum capital investment of \$275 per square foot for each of the offered locations.

Space/ Location	Minimum Acceptable Capital Investment (per sq. ft.)
Terminal 1, # 140	\$275
Terminal 1, # 154	\$275
Terminal 1, # 178	\$275
Terminal B, # TS-201	\$275
Terminal B, # TS-206	\$275
Terminal B, # TS-101	\$275

The City reserves the right to review and approve all improvements and other capital investments. The Agreement will include a provision that the Selected Respondent will submit to the City, detailed plans of its proposed facilities in accordance with the terms and conditions of the Design Criteria Manual, which is attached hereto as RFP Exhibit C. Upon written notice by the City of its approval of the plans, the Selected Respondent will coordinate with the City the construction and installation of its facilities. The Selected Respondent will be responsible for any necessary permitting that may apply.

5. Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation

The concessions program at Airport is subject to federal regulations set forth in 49 CFR 23 ("Part 23") governing Airport Concession Disadvantaged Business Enterprises ("ACDBEs"). It is the policy of the City to fully comply with the requirements of Part 23. Accordingly, the City has established a goal of 33.3% participation by ACDBEs in the concessions offered by this RFP.

Additional information regarding ACDBE participation in this concession may be found in RFP Exhibit D - Airport Concessionaire Disadvantaged Business Enterprise Program and Requirements. DBE/ACDBE forms may be located in Response Attachment D.

Federal Regulation 49 CFR 23 may be downloaded from the following web link:

http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl

IV. PRE-SUBMITTAL CONFERENCE

The Pre-Submittal Conference will be held at the San Antonio International Airport, Terminal 1, Mezzanine Conference Room, 9800 Airport Boulevard, San Antonio, Texas 78216 at **2:00 p.m., Local Time, on Wednesday, August 12, 2009**. Attendance at the Pre-Submittal Conference is optional, but highly recommended.

Respondents are encouraged to prepare and submit their questions in writing seven (7) calendar days in advance of the Pre-Submittal Conference in order to expedite the proceedings. City's responses to questions received by this due date may be distributed at the Pre-Submittal Conference and posted on the City's website at <http://epay.sanantonio.gov/RFPListings>.

This meeting place is accessible to disabled persons. The San Antonio International Airport is wheelchair accessible. The accessible entrances are located at 9800 Airport Boulevard, Terminal 1. Accessible parking spaces are located at the short term parking garage. Auxiliary aids and services are available upon request. Interpreters for the Deaf must be requested at least 48 hours prior to the meeting. For assistance, call (210) 207-7245 Voice/TTY.

Any oral responses provided by City staff at the Pre-Submittal Conference shall be preliminary. A written summary of the Pre-Submittal Conference shall contain official responses, if any. Any oral response given at the Pre-Submittal Conference that is not confirmed in the written summary of the Pre-Submittal Conference or by a subsequent addendum shall not be official or binding on the City. Only written responses shall be official and all other forms of communication with any officer, employee or agent of the City shall not be binding on the City. Respondents are

encouraged to resubmit their questions in writing, to the City Staff person identified in Section VIII – Restrictions on Communication, after the conclusion of the Pre-Submittal Conference.

V. RESPONSE REQUIREMENTS

Respondent's Proposal shall include the following items in the following sequence:

A. **RESPONDENT PROPOSAL:** Complete and submit Response Attachment A:

TAB 1 – TABLE OF CONTENTS

TAB 2 – GENERAL INFORMATION

TAB 3 – REFERENCES

TAB 4 – EXPERIENCE AND QUALIFICATIONS

TAB 5 – PROPOSED CONCESSION PLAN

- Concept & Theme Development
- Design & Quality of Improvements

TAB 6 – FINANCIAL PLAN & COMPENSATION SCHEDULE

B. **DISCRETIONARY CONTRACTS DISCLOSURE:** Response Attachment B, Discretionary Contracts Disclosure Form is posted as a separate document and may also be downloaded at <https://www.sanantonio.gov/eforms/atty/DiscretionaryContractsDisclosure.pdf>.

Complete on-line, print form and place copy as Tab 7 within respondent's proposal submittal. After successfully printing the completed form, click on the "Submit" button to file electronically.

C. **LITIGATION DISCLOSURE:** Complete and submit Response Attachment C, Litigation Disclosure Form. If Respondent is proposing as a team or joint venture, then all persons or entities who will be parties to the contract (if awarded) shall complete and return this form with the proposal.

Place as Tab 8 within respondent's submittal.

D. **AIRPORT CONCESSIONAIRE DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAM REQUIREMENTS:** Complete, sign and submit the required ACDBE Good Faith Effort Plan for Federally Funded Contracts (ACDBE Form 1). If subcontractor/s/suppliers are certified, attach a copy of their Certification Affidavit to ACDBE Form 1. Submit the required Joint Venture documentation, if applicable. Prepare and submit the Narrative Statement. Forms can be found in Response Attachment D.

Place documents as Tab 9 within respondent's submittal.

E. PROPOSAL BOND: Respondent must submit a proposal bond, in the form shown in RFP Exhibit G. Proposal Bond submitted shall include the following provisions:

- Made payable to the City of San Antonio.
- Executed by a corporate surety acceptable to the City who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of the Treasury's Listing of Approved Sureties (Dept Circular 570).
- In the amount of fifty percent (50%) of the proposal Minimum Annual Guarantee (MAG) or TEN THOUSAND DOLLARS (\$10,000.00), whichever is greater.
- Valid for one hundred twenty (120) days following the deadline for submission of proposals.
- Must be accompanied by an original signed and notarized Power-of-Attorney bearing the seal of the issuing surety company and reflecting that the signatory to the bond is a designated Attorney-in-Fact.

Place documents as Tab 10 within respondent's ORIGINAL proposal submittal. Additional copies are not required.

If respondent is not selected, the City will not collect on the bond, but will keep the original document pursuant to the Local Government Records Act and applicable retention schedule.

The proposal bond shall provide assurance that the proposal has been submitted in good faith, the Respondent intends to enter into the contract in accordance with the proposal, and will provide the required performance bond, if awarded the contract. Failure to enter into the contract, if awarded, or to provide the required performance bond, may result in a forfeiture of the proposal bond.

Failure to submit a proposal bond with submittal will render the proposal non-responsive and therefore disqualified from consideration.

F. PROOF OF INSURABILITY: Submit a letter from insurance provider stating provider's commitment to insure the respondent for the types of coverages and at the levels specified in this RFP if awarded a contract in response to this RFP. Respondent shall also submit a copy of their current insurance certificate.

Place both documents as Tab 11 within respondent's ORIGINAL proposal submittal. Additional copies are not required.

G. FINANCIAL INFORMATION: Respondent must submit with proposal, the following financial statement:

- If respondent is organized as a corporation, partnership, LLP, LLC or joint venture, submit complete financial statements, including a Balance Sheet, Income Statement

and Statement of Cash Flows, prepared in accordance with generally accepted accounting principles, for the current fiscal year-to-date, and the most recent three complete fiscal years. Footnote disclosures must accompany the submitted year-to-date financial statements. If available, financial statements audited or certified by an independent certified public accountant should be submitted; otherwise, a notarized statement certifying the accuracy of the financial information and signed by an officer of the proposing entity must accompany the financial information.

- If the proposing entity is a wholly-owned subsidiary of another entity, then the above-referenced financial information of the parent entity must also be submitted.
- If respondent intends to organize as a partnership, LLP, LLC, or joint venture, then the above-referenced financial information of each partner, LLC/LLP member or joint-venturer must be submitted. Individuals required to provide financial information must submit the three most recent personal tax returns and a current statement of net worth.
- If respondent intends to operate as a sole proprietorship, then the three most recent personal tax returns and a current statement of net worth must be submitted.

The respondent must submit the above-referenced financial information for proposed subtenants, if any.

Place documents as Tab 12 within respondent's ORIGINAL submittal. Additional copies are not required.

The City reserves the right to obtain, at no cost to the respondent, a Dun and Bradstreet financial report, or other credit report, on respondent and its partners, affiliates and subtenants, if any, to facilitate its financial evaluation of the proposal.

- H. SIGNATURE PAGE: Respondent must complete, sign and submit the Signature Page found in Response Attachment E. The Signature Page must be signed by a person, or persons, authorized to bind the entity, or entities, submitting the proposal. Proposals signed by a person other than an officer of the company or partner of the firm shall be accompanied by evidence of authority. Place document as Tab 13 within respondent's submittal.
- I. PROPOSAL CHECKLIST: Complete and submit the Proposal Checklist found in Response Attachment F. Place document as Tab 14 within respondent's submittal.

Respondent is expected to examine this RFP carefully, understand the terms and conditions for providing the services listed herein and respond completely. **FAILURE TO COMPLETE AND PROVIDE ANY OF THESE RESPONSE REQUIREMENTS MAY RESULT IN THE RESPONDENT'S PROPOSAL BEING DEEMED NON-RESPONSIVE AND THEREFORE DISQUALIFIED FROM CONSIDERATION.**

VI. AMENDMENTS TO RFP

Amendment to the RFP, including written responses to questions received in compliance with Section VIII, Restrictions on Communication, may be posted as addendums on the City's website at <http://epay.sanantonio.gov/RFPListings/>. It is the respondent's responsibility to review this site and ascertain whether any amendments have been made prior to submission of a proposal. A Respondent, who does not have access to the internet, must notify City in accordance with Section VIII, Restrictions on Communication, that Respondent wishes to receive copies of addendums by mail or fax.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFP, and changes to the RFP, if any, shall be made in writing only.

VII. SUBMISSION OF PROPOSALS

- A. Respondent shall submit: one (1) original, signed in ink, eight (8) copies of the proposal, and one (1) compact disk (CD) containing a copy of the entire proposal in standard PDF format (with fonts embedded). Respondent shall submit these items in a sealed package, clearly marked on the front of the package: **Airport News & Gift Concession, Terminals 1 & B.**

All proposals must be received in the City Clerk's Office no later than **3:00 p.m., Local Time, on Tuesday, October 13, 2009** at the address below. Proposals submitted prior to the above time and date may be modified provided such modifications are sealed and received by the City Clerk's Office prior to the time and date set for submission of proposals. Any proposal or modification received after this time shall not be considered, and will be returned, unopened to the respondent. Respondents should note that delivery to the P.O. Box address in a timely manner does not guarantee its receipt in the City Clerk's Office by the deadline for submission. Therefore, respondents should strive for early submission to avoid the possibility of rejection for late arrival.

Mailing Address:

City Clerk's Office, Attn: Aviation Department
P.O. Box 839966
San Antonio, Texas 78283-3966

Physical Address:

City Clerk's Office, Attn: Aviation Department
100 Military Plaza
2nd Floor, City Hall
San Antonio, Texas 78205

Proposals sent by facsimile or email will not be accepted.

- B. Proposal Format: Each proposal shall be typewritten, single spaced and submitted on 8½" x 11" white paper with originals placed inside a three ring binder and each copy to be securely bond in a more economical fashion (i.e. – heat bond, spiral bond, etc.). The use of recycled paper and materials is encouraged. Unnecessarily elaborate brochures, artwork, bindings, visual aides, expensive paper or other materials beyond that sufficient to present a complete and effective submission are discouraged. Font size shall be no less than 12-point

type. All pages shall be numbered and printed two-sided only. Margins shall be no less than 1" around the perimeter of each page. Response Attachment A – Respondent Proposals may not exceed 50 pages. Electronic files, websites, or URLs shall not be submitted in lieu of the proposal, other than the CD specified above.

Each proposal must include the sections and attachments in the sequence listed in the RFP Section V, Response Requirements, and each section and attachment must be indexed and divided by tabs and indexed in a Table of Contents page as indicated in Response Attachment F - Proposal Checklist. Failure to meet the above conditions may result in disqualification of the proposal.

- C. Respondents who submit proposals to this RFP shall correctly reveal, disclose, and state the true and correct name of the individual, proprietorship, corporation, and /or partnership (clearly identifying the responsible general partner and all other partners who would be associated with the contract, if any). No nicknames, abbreviations (unless part of the legal title), shortened or short-hand, or local "handles" will be accepted in lieu of the full, true and correct legal name of the entity. These names shall comport exactly with the corporate and franchise records of the Texas Secretary of State and Texas Comptroller of Public Accounts. Individuals and proprietorships, if operating under other than an individual name, shall match with exact Assumed Name filings. Corporate Respondents and limited liability company respondents shall include the 11-digit Comptroller's Taxpayer Number in Response Attachment A – Respondent Proposal.

If an entity is found to have incorrectly or incompletely stated its name or failed to fully reveal its identity on the signature page of its proposal, the City's Aviation Director shall have the discretion, at any point in the contracting process, to suspend consideration of the proposal.

- D. All provisions in respondent's proposal, including any estimated or projected costs, shall remain valid for 120 days following the deadline date for submissions or, if a proposal is accepted, throughout the entire term of the contract.
- E. All proposals become the property of the City upon receipt and will not be returned. Any information deemed to be confidential by respondent should be clearly noted on the page(s) where confidential information is contained; however, the City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by respondent may not be considered confidential under Texas law, or pursuant to a Court order.
- F. Any cost or expense incurred by the respondent that is associated with the preparation of the proposal, the Pre-Submittal Conference, if any, or during any phase of the selection process, shall be borne solely by respondent.

VIII. RESTRICTIONS ON COMMUNICATION

- A. Respondents are prohibited from communicating with: 1) elected City officials and their staff regarding the RFP or Proposals from the time the RFP has been released until the contract is posted as a City Council agenda item; and 2) City employees from the time the RFP has been released until the contract is awarded. These restrictions extend to "thank you"

letters, phone calls, emails and any contact that results in the direct or indirect discussion of the RFP and/or proposal submitted by respondents. Violation of this provision by respondent and/or its agent may lead to disqualification of respondent's proposal from consideration.

Exceptions to the restrictions on communication with City employees include:

1. Respondents may ask verbal questions concerning this RFP at the Pre-Submittal Conference.
2. Respondents may submit written questions concerning this RFP to the Staff Contact Person listed in the address below until **4:00 p.m., Local Time, on Tuesday, September 1, 2009**. Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by email to:

Terri Canal, Contract Coordinator
City of San Antonio, Purchasing & General Services Department
Terri.Canal@sanantonio.gov

However, questions sent by certified mail, return receipt requested, will also be accepted and should be addressed to:

Terri Canal, Contract Coordinator
City of San Antonio, Purchasing & General Services Department
P.O. Box 839966
San Antonio, TX 78283-3966

Questions submitted and the City's responses will be posted in the form of an Addendum to the City's web site at <http://epay.sanantonio.gov/RFPListings/>.

3. Respondent and/or their agents may contact the Aviation Department's ACDBE Liaison Officer for assistance or clarification with issues specifically related to the ACDBE policy and/or completion of the Good Faith Effort Plan. Point of contact is Ms. Lisa Brice, who may be reached via telephone at **(210) 207-3505** or through email at lisa.brice@sanantonio.gov. Respondents and/or their agents may contract Ms. Brice at any time prior to the due date for submission of proposals. Contacting her or her office regarding this RFP after the proposal due date is not permitted.
 4. Respondents may provide responses to questions asked of them by the Staff Contact Person after responses are received and opened. During interviews, if any, verbal questions and explanations will be permitted.
 5. Upon completion of the evaluation process, Respondents shall receive a notification letter indicating the recommended firm and anticipated City Council agenda date. Respondents desiring a review of the solicitation process may submit a written request to the Department Director no later than seven (7) calendar days from the date letter was sent.
- B. City reserves the right to contact any respondent to negotiate if such is deemed desirable by City.

- C. **The contract that may result from this solicitation has been designated as “high-profile.”** For contracts that have been designated by the City as high-profile, City Code Article VII, Section 2-309 provides that the following individuals cannot make a campaign or officeholder contribution to any councilmember or candidate during the “black-out” period:
1. any individual seeking a high-profile contract;
 2. any owner or officer of an entity seeking a high-profile contract;
 3. the designated legal signatory of high-profile contract;
 4. the spouse of any of these individuals; and
 5. any attorney, lobbyist or consultant retained to assist in seeking a high-profile contract.

The contribution “black-out” period will run from the 10th business day after the solicitation has been released until the 30th calendar day after the resulting contract has been awarded.

Any legal signatories for a proposed high-risk contract must be identified within the response to this solicitation, if the identity of the signatory will be different from the individual submitting the response.

If any of the listed individuals have made a campaign or officeholder contribution during the “black out” period, the City cannot award the contract to that contributor or to that contributor’s business entity. Any contract awarded in violation of this provision shall be voidable at the discretion of the City Council.

IX. EVALUATION CRITERIA

The City will conduct a comprehensive, fair and impartial evaluation of all proposals received in response to this RFP. All proposals will be reviewed and evaluated by an Evaluation Committee appointed by the Aviation Director, which will recommend to the Director one or more respondents for award of the offered concessions.

The Evaluation Committee will require interviews of shortlisted Respondents. Respondents that are invited to interview will be re-scored based upon the same criteria as listed below. The City may also request additional information from Respondents at any time prior to final approval of the Selected Respondent(s). The City reserves the right to select one, or more, or none of the respondents to provide services. Final approval of a Selected Respondent is subject to the action of the City of San Antonio City Council.

The City of San Antonio has a rich old-Spanish flavor and proud multicultural heritage. Modern skyscrapers coexist harmoniously with 18th-century restorations and numerous parks and plazas, making San Antonio one of the country’s most picturesque cities. Evaluations of proposals will reflect the City’s goal of a concessions plan that provides opportunities for local businesses and their branding concepts and offers the traveling public a selection of merchandise concepts that combines the city’s heritage and history with national branding concepts. The evaluation will consider the extent to which the respondent has attempted to reflect the location heritage and the region’s history when developing its proposed concession plan.

Evaluation Criteria:

In addition to any other criteria or requirements set forth elsewhere in this RFP, the Evaluation Committee will consider the following evaluation criteria.

A. Experience and Qualifications 15 Points

This criterion considers the respondent's experience and qualifications based on an assessment of its prior experience at San Antonio International Airport and other airports or similar high-traffic venues. This criterion includes, but is not limited to, factors such as the comparative size and performance of the respondent's other businesses; respondent's experience with the proposed concepts; references; and the experience and qualifications of designated on-site management.

B. Concept and Theme Development 30 Points

This criterion considers the nature and variety of proposed facilities including merchandising; breadth and depth of product offerings; themes and products; innovation; visual presentation; and compatibility with the overall concessions plan and program.

C. Design and Quality of Improvements 15 Points

This criterion considers the physical design and construction of the facilities including innovation and creativity of concepts; quality of materials; floor plans, circulation and queuing; quality of graphics and signage; and the inclusion of San Antonio themes and motifs.

D. Compensation Schedule 20 Points

Financial projections and fee proposals shall be evaluated based on the overall compensation to the City assuming a standardized sales forecast. The respondent(s) with the highest compensation to the City will receive 20 points. All other respondents will receive a percentage of points based on the variance of the compensation from the highest proposal. For example, if a respondent proposes a compensation that equals 75% of the highest proposed fee, that respondent will receive 75% of the total possible points. The City reserves the right to establish a maximum percentage fee and/or maximum Gross Revenues for which points will be awarded.

E. Airport Concessionaire Disadvantaged Business Enterprise Program (ACDBE) 20 Points

ACDBE participation shall be evaluated based on the participation plan and other information submitted by respondent as set forth in the Airport Concessionaire Disadvantaged Business Enterprise Program Requirements and Forms (Response Attachment D).

F. Financial Capability of Respondents Pass/Fail

This criterion includes an assessment of the respondent's ability to provide adequate capitalization to fund the improvements.

The City will also consider the past performance of the Respondent, and its constituent individuals or entities as applicable, on other leases or contracts with the City or other entities in terms of quality of concession or business operation and reputation as a good tenant. The City may solicit from other government agencies and any other available sources, relevant information concerning the respondent's record of past performance.

Responses also will be evaluated to ensure compliance with all applicable local, city, state, and federal laws, ordinances, statutes, and/or codes.

X. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

- A. City reserves the right to award one, more than one or no contract(s) in response to this RFP.
- B. The Contract, if awarded, will be awarded to the respondent(s) whose proposal(s) is deemed most advantageous to City, as determined by the selection committee, upon approval of the City Council.
- C. City may accept any proposal in whole or in part. If subsequent negotiations are conducted, they shall not constitute a rejection or alternate RFP on the part of City. However, final selection of a respondent is subject to City Council approval.
- D. The City is **not** required to select the proposal with the highest proposed Minimum Annual Guaranteed rent or the highest projected compensation to the City.
- E. City reserves the right to accept one or more proposals or reject any or all proposals received in response to this RFP, and to waive informalities and irregularities in the proposals received. City also reserves the right to terminate this RFP, and reissue a subsequent solicitation, and/or remedy technical errors in the RFP process.
- F. The City reserves the right to make awards based on overall merchandising considerations of the terminal.
- G. City will require the Selected Respondent(s) to execute a contract in substantially the form as attached with the City, prior to City Council award. No work shall commence until City signs the contract document(s) and Selected Respondent(s) provides the necessary evidence of insurance as required in this RFP and the contract. Contract documents are not binding on City until approved by the City Attorney. In the event the parties cannot negotiate and execute a contract within the time specified, City reserves the right to terminate negotiations with the Selected Respondent and commence negotiations with another respondent.
- H. This RFP does not commit City to enter into a contract, award any services related to this RFP, nor does it obligate City to pay any costs incurred in preparation or submission of a proposal or in anticipation of a contract.
- I. If selected, respondent will be required to comply with the Insurance and Indemnification Requirements established herein.
- J. Conflicts of Interest. Respondent acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms

are defined in the Ethics Code, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee has a “prohibited financial interest” in a contract with City or in the sale to City of land materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: the City officer or employee; his parent, child or spouse; a business entity in which he or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; or a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of the City, as defined in Section 2-42 of the City’s Ethics Code. (Discretionary Contracts Disclosure – Response Attachment B)

- K. Independent Contractor. Respondent agrees and understands that, if selected, it and all persons designated by it to provide services in connection with a contract, is (are) and shall be deemed to be an independent contractor(s), responsible for its (their) respective acts or omissions, and that City shall in no way be responsible for respondent’s actions, and that none of the parties hereto will have authority to bind the others or to hold out to third parties, that it has such authority.
- L. Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at <http://www.ethics.state.tx.us/forms/CIQ.pdf>. Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the City Clerk. If mailing a completed conflict of interest questionnaire, mail to Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. If delivering a completed conflict of interest questionnaire, deliver to: Office of the City Clerk, City Hall, 2nd floor, 100 Military Plaza, San Antonio, TX 78205. Respondent should consult its own legal advisor for answers to questions regarding the statute or form.
- M. The City reserves the right to reject any and all proposals and to invite new proposals, or take such other course of action as the City deems appropriate at the City’s sole and absolute discretion. The City reserves the right to:
 - a. Specify approximate concession space in the RFP.
 - b. Modify the locations and sizes of the offered space.
 - c. Select multiple proposals.
 - d. Negotiate all proposal elements.
- N. Non-Exclusivity. The City will not enter into an exclusive agreement with the Selected Respondent(s). There are currently other concessionaires at the Airport selling products similar to those contemplated by this RFP. Further, at any time during the term of the Agreement, the City, at its own discretion, may enter into other agreements for retail concepts similar to those in operation at the Airport including those of the Selected

Respondent(s). Nothing herein is to be construed to grant and/or authorize the granting of an exclusive right to a respondent.

- O. Public Accommodation Laws. The Agreement will include a provision that the Selected Respondent(s) must comply fully with all applicable laws, regulations and building codes governing non-discrimination in public accommodations and commercial facilities, including without limitation, the requirements of American with Disabilities Act of 1990 and all regulations thereunder.
- P. Condition of Premises. Selected Respondent(s) will receive space(s) in its then current condition, “as is/where is” and may be required to demolish and reconfigure the space at its sole cost in order to accomplish the merchandising plan. All improvements will be the responsibility of the Selected Respondent(s) and will be subject to the approval of the City.

The City reserves the right to review and approve all improvements and subsequent changes to the Premises including, but not limited to, the initial design and construction of leasehold improvements and furnishings, fixtures and equipment as well as later changes related to refurbishment, re-concepting and/or remerchandising of the Premises. All improvements must conform to the requirements of the City, County, State and Federal laws and regulations and industry standards in all respects. The City further reserves the right to approve all contractors and subcontractors that the Selected Respondent(s) may select to construct the improvements.

- Q. Personnel Background Check. The City requires that all employees of the Selected Respondent obtain an Airport-issued ID Badge. The Selected Respondent(s) shall conduct and assure the City that each of its employees have a background check, to the extent allowable by law, including, at a minimum, references and prior employment histories to the extent necessary to verify representations made by said employees relative to their employment in the preceding ten years. The Selected Respondent(s) is also responsible for complying with all security regulations and requirements as may be promulgated by the Federal Aviation Administration (“FAA”), Transportation Security Administration (“TSA”), the City or any other governmental unit with jurisdiction. It is understood that the requirements of the FAA, TSA, or City regarding security matters may change from time to time, and the Selected Respondent shall comply with all such requirements. Any amount paid by the City for security violation(s) by the Selected Respondent shall be reimbursed to the City by Selected Respondent.
- R. Respondent must be capable and willing to operate the concession in the manner set forth in the proposal. Alterations, additions and/or modifications will not be accepted and may be cause for rejection of the respondent’s proposal.

XI. PERFORMANCE BOND

Selected Respondent(s) shall provide a performance bond made payable to the City of San Antonio, executed by a corporate surety acceptable to City who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of the Treasury’s Listing of Approved Sureties (Dept Circular 570) in the amount of fifty percent (50%) of the accepted Minimum Annual Guarantee (MAG) amount. Said performance bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind

the surety. The performance bond must clearly and prominently display on the bond or on an attachment to the bond: (1) the name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent; or (2) the toll-free telephone number maintained by the Texas Department of Insurance under §521.051, Texas Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.

XII. SCHEDULE OF EVENTS

Following is a list of **projected dates/times** with respect to this RFP.

RFP Release Date	Sunday, July 26, 2009
Pre-Submittal Conference	Wednesday, August 12, 2009 at 2:00 p.m.
Final Questions Accepted	Tuesday, September 1, 2009 at 4:00 p.m.
Proposals Due	Tuesday, October 13, 2009 at 3:00 p.m.

RESPONSE ATTACHMENT A

RESPONDENT PROPOSAL

RESPONDENT PROPOSAL

Instructions: Prepare and submit narrative responses to address the following items. If Respondent is proposing as a team or joint venture, provide the same information for each member of the team or joint venture. Respondent's proposals should be organized and submitted in the following manner and order, with each section tabbed and noted with the appropriate heading indicated.

TAB 1 – TABLE OF CONTENTS

TAB 2 - GENERAL INFORMATION

Complete the following form and include with Respondent's Proposal.

1. Respondent Information: Provide the following information regarding the Respondent.

(NOTE: Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal includes Co-Respondents, provide the required information in this Item #1 for each Co-Respondent by copying and inserting an additional block(s) before Item #2.)

Respondent Name: _____

(NOTE: Give exact legal name as it will appear on the contract, if awarded.)

Principal Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Social Security Number or Federal Employer Identification Number: _____

Texas Comptroller's Taxpayer Number, if applicable: _____

(NOTE: This 11-digit number is sometimes referred to as the Comptroller's TIN or TID.)

DUNS NUMBER: _____

Business Structure: Check the box that indicates the business structure of the Respondent.

☐ Individual or Sole Proprietorship If checked, list Assumed Name, if any: _____

☐ Partnership

☐ Corporation If checked, check one: ☐ For-Profit ☐ Nonprofit

Also, check one: ☐ Domestic ☐ Foreign

☐ Other If checked, list business structure: _____

Printed Name of Contract Signatory: _____

Job Title: _____

(NOTE: This RFP solicits proposals to provide services under a contract which has been identified as "High Profile". Therefore, Respondent must provide the name of person that will sign the contract for the Respondent, if awarded.)

Provide any other names under which Respondent has operated within the last 10 years and length of time under for each: _____

2. **Contact Information:** List the one person who the City may contact concerning your proposal or setting dates for meetings.

Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Email: _____

3. Does Respondent anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?

Yes ☐ No ☐

4. Is Respondent authorized and/or licensed to do business in Texas?

Yes ☐ No ☐ If "Yes", list authorizations/licenses.

5. Where is the Respondent's corporate headquarters located? _____

6. **Local/County Operation:** Does the Respondent have an office located in San Antonio, Texas?

Yes ☐ No ☐ If "Yes", respond to a and b below:

- a. How long has the Respondent conducted business from its San Antonio office?

Years _____ Months _____

- b. State the number of full-time employees at the San Antonio office. _____

If "No", indicate if Respondent has an office located within Bexar County, Texas:

Yes ☐ No ☐ If "Yes", respond to c and d below:

c. How long has the Respondent conducted business from its Bexar County office?

Years _____ Months _____

d. State the number of full-time employees at the Bexar County office. _____

7. **Debarment/Suspension Information:** Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity?

Yes ☐ No ☐

If "Yes", identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

8. **Surety Information:** Has the Respondent ever had a bond or surety canceled or forfeited?

Yes ☐ No ☐

If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

9. **Bankruptcy Information:** Has the Respondent ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

Yes ☐ No ☐

If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

10. **Disciplinary Action:** Has the Respondent ever received any disciplinary action, or any pending disciplinary action, from any regulatory bodies or professional organizations? If "Yes", state the name of the regulatory body or professional organization, date and reason for disciplinary or impending disciplinary action.

TAB 3 - REFERENCES: Provide four (4) references, one of which must be from a financial institution that has provided Respondent with banking services during the past three years. Remaining three shall include references in which Respondent has provided similar services and shall have agreed to Respondent's request to serve as a reference on this solicitation. The contact person named should be familiar with the day-to-day management of the contract with the Respondent and be willing to respond to questions regarding the type, level, and quality of service provided by the Respondent. Prior to submitting the Proposal, please coordinate with the named contact persons to determine their willingness to respond to such questions.

Reference No. 1: (Financial Institution)

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Email: _____

Reference No. 2:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Email: _____

Reference No. 3:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Email: _____

Reference No. 4:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Email: _____

TAB 4 - EXPERIENCE AND QUALIFICATIONS: Prepare and submit narrative responses to address the following items. Responses shall be inserted into this form; do not delete the questions. If Respondent is proposing as a team or joint venture, provide the same information for each member of the team or joint venture. Respondent must clearly identify the Space # to which the information pertains.

1. Describe Respondent's experience relevant to the scope of concession services contemplated by this RFP, with emphasis upon operation and management experience within an airport, major transportation center, shopping center, or other high-traffic/high volume environment. List relevant operation and management experience for businesses of similar size and scope by including the following:
 - a. Name and location/address for each;
 - b. Retail concept offered;
 - c. Average annual sales volume; and
 - d. Length of time and reason(s) for leaving or closing business.
 - e. Provide photographs of the interior and exterior for each business listed, if available.
2. Describe Respondent's specific concession experience within an airport setting, if applicable. If Respondent has operated a concession within a City facility or for the City in the past, include the following:
 - a. Identify the department for which concession services were provided;
 - b. Name and location/address for each;
 - c. Retail concept offered;
 - d. Average annual sales volume; and
 - e. Length of time and reason(s) for leaving or closing business.
 - f. Provide photographs of the interior and exterior for each business listed, if available.
3. List key personnel who will be assigned and actively involved in the management and operation of the proposed concession (include resumes for each listing relevant experience, licenses, certifications, associations, specialized training, etc.).
4. If Respondent is proposing as a team or joint venture, describe the rationale for selecting the team and the extent to which the team members or joint venturers have worked together in the past.
5. Additional Information. Identify any additional skills, experiences, qualifications, and/or other relevant information about the Respondent's qualifications.

TAB 5 - PROPOSED CONCESSION PLAN: Prepare and submit the following items. If Respondent must clearly identify the Space # to which the information pertains.

1. Store Concept Development Plan. Describe Respondent's proposed plan for specialty retail concession to include the following:
 - a. Retail concept and theme;
 - b. Proposed merchandise selection and approximate price range for each category; and
 - c. Visual presentation.
 - d. Identify three stores within the San Antonio area for price comparison purposes that are comparable to the Respondent's. **Note:** Comparable facilities listed should not include any type of hotel news and gift shops, stores at other airports, nor any stores within enclosed shopping centers, if non-shopping mall type locations are available. If Respondent operates other similar stores or restaurants within the San Antonio area, those store(s) or restaurant(s) must be included in the comparable facility listing.
2. Design of Facilities Plan. Describe Respondent's plan for proposed capital improvements to be made to the space and the dominant design theme. Include with response the following:
 - a. Photographs of existing facilities and/or renderings of the proposed facility to illustrate the proposed design.
 - b. Identify proposed architectural design team, specifying prior experience in the design of retail and/or food service facilities (including resumes and project experience).
3. Additional Information. Provide any additional plans and/or relevant information about Respondent's approach to providing the required services.

TAB 6 - PROPOSED FINANCIAL PLAN: Prepare and submit the following items. Respondent must clearly identify the Space # to which the information pertains.

1. Projected Sales, Net Income and Cash Flow Statements. Provide a good faith estimate derived from the proposed operation(s) for the first three (3) years of the contract term. Include the following:
 - a. Expected annual gross sales;
 - b. Cost of goods sold;
 - c. Operating expenses;
 - d. Net income and cash flow;
 - e. Effect of proposed compensation to the City on net income and cash flow; and
 - f. Major assumptions used in developing the sales projections.
2. Capital Investment and Financial Sources Plan. Provide a detailed cost estimate for the Respondent's proposed improvements and additional start-up costs. Include with response, Respondent's source of funds (cash, bank loan, etc.) for said improvements and start-up costs. Note: Respondent's proposed estimate should delineate all improvements; equipment; furnishing and fixtures; architectural design and engineering fees; working capital; initial inventory; improvements completion bond; and other capital investments.
3. Complete Form 1 – Compensation Schedule.

Form 1 - COMPENSATION SCHEDULE

A. Proposed Minimum Annual Guarantee (MAG): Indicate the Minimum Annual Guarantee (“MAG”) you propose to pay the City during each of the first five Lease Years of the Term. Amounts should be listed in dollars per year and must conform to the specifications of the RFP.

Lease Year 1: \$ _____

Lease Year 2: \$ _____

Lease Year 3: \$ _____

Lease Year 4: \$ _____

Lease Year 5: \$ _____

B. Proposed Percentage Fee Rate(s): In the table below, please enter the proposed Percentage Fee Rate(s) for each merchandise category and/or revenue tier (as applicable).

Merchandise Category / Revenue Tiers (as applicable)	Percentage Fee Rate
	%
	%
	%
	%
	%
	%
	%
	%

RESPONSE ATTACHMENT B

DISCRETIONARY CONTRACTS DISCLOSURE FORM

Discretionary Contracts Disclosure Form is posted as a separate document or may be downloaded at <https://www.sanantonio.gov/eforms/atty/DiscretionaryContractsDisclosure.pdf>.

Instructions for completing the Discretionary Contracts Disclosure form are listed below:

1. Download form and complete all fields.
2. Click on the “Print” button and place the copy in proposal response as indicated in the Proposal Checklist.
3. Click the “Submit” button. If the Respondent neglects to complete all required fields, incomplete areas will be highlighted in red. All fields must be completed prior to submitting the form.

RESPONSE ATTACHMENT C
LITIGATION DISCLOSURE FORM

LITIGATION DISCLOSURE

Respond to each of the questions below by checking the appropriate box. Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your proposal from consideration or termination of the contract, once awarded.

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

Yes ☐ No ☐

2. Have you or any member of your Firm or Team to be assigned to this engagement been terminated (for cause or otherwise) from any work being performed for the City of San Antonio or any other Federal, State or Local Government, or Private Entity?

Yes ☐ No ☐

3. Have you or any member of your Firm or Team to be assigned to this engagement been involved in any claim or litigation with the City of San Antonio or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Yes ☐ No ☐

If you have answered “Yes” to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

RESPONSE ATTACHMENT D

DBE/ACDBE FORMS

SAN ANTONIO INTERNATIONAL AIRPORT

DBE/ACDBE GOOD FAITH EFFORT PLAN FOR FEDERALLY FUNDED CONTRACTS

(DBE/ACDBE FORM 1)

NAME OF PROJECT: **Airport News & Gift Concession, Terminals 1 & B**

PROPOSER INFORMATION:

Name of Proposer: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail Address: _____

Is your firm certified? ____ Yes ____ No

Type of Certification: ____ DBE/ACDBE ____ MBE ____ WBE ____ AABE ____ SBE

Age of Firm (Number of Years in Business): _____ years

Annual Gross Receipts of the Firm: _____ Less than \$500,000 _____ \$500,000 to \$1 million
 _____ \$1 million to \$2 million _____ \$2 million to \$5 million
 _____ Over \$5 million

1. List **ALL SUBCONTRACTORS/SUPPLIERS** that will be utilized on this contract. **The apparent successful proposer for professional services contracts** shall submit a Letter of Intent (DBE/ACDBE Form 2) for all firms to be utilized on this contract to the Aviation Department's DBE/ACDBE Liaison Officer within seven business days from the date a contract is negotiated. **If the Aviation Department does not receive completed copies from the apparent successful proposer within seven (7) business days from the date a contract is negotiated, then apparent successful proposer's Good Faith Effort Plan will not be approved. An approved Good Faith Effort Plan is required prior to award of any contract.**

Name & Address of Company	Scope of Work/Supplies to be Performed/ Provided by Firm	Estimated Contract or % Level of Participation	If Firm is DBE/ACDBE Certified, Provide Certification Number	Date Written Notice Was Sent and Method (Letter, Fax, E-mail)
1.				
2.				
3.				
4.				
5.				

(Use Additional Sheets if Necessary)

If goal was met, skip to Item 9

2. List all firms you contacted with subcontracting/supply opportunities for this project that will not be utilized for this contract by choice of either the proposer, subcontractor, or supplier. ***Written notices to firms contacted by the proposer for specific scopes of work identified for subcontracting/supply opportunities must be provided to subcontractor/supplier not less than five (5) business days prior to bid/proposal due date.*** The following information is required for all firms that were contacted for subcontracting/supply opportunities:

Name & Address of Company	Scope of Work/Supplies to be Performed/ Provided by Firm	Estimated Contract Amount or % Level of Participation	If Firm is DBE/ACDBE Certified, Provide Certification Number	Date Written Notice Was Sent and Method (Letter, Fax, E-mail)	Reason Agreement Was Not Reached
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

(Use additional sheets as needed)

In order to verify a proposer's good faith efforts, it may be necessary to provide the City with copies of the written notices to all firms contacted by the proposer for specific scopes of work identified in relation to the subcontracting/supply opportunities in the above named project. If requested by the DBE/ACDBE Liaison, copies of said notices must be provided to the DBE/ACDBE Liaison within five (5) business days of such request. Such notices shall include information on the plans, specifications and scope of work.

3. Did you attend the pre-proposal conference scheduled by the City for this project? _____ Yes _____ No

4. List all DBE/ACDBE listings or directories, contractor associations, and/or any other associations utilized to solicit DBE/ACDBE subcontractors/suppliers:

5. Discuss efforts made to define additional elements of the work proposed to be performed by DBE/ACDBEs in order to increase the likelihood of achieving the goal:
- _____
- _____
6. Indicate advertisement mediums used for soliciting bids from DBE/ACDBEs. (Please attach a copy of advertisement(s)).
- _____
- _____
7. Discuss efforts made to assist interested DBE/ACDBEs in obtaining bonding, letters of credit, or insurance:
- _____
- _____
8. Discuss efforts made to assist interested DBE/ACDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services:
- _____
- _____
9. Name and phone number of person appointed to coordinate and administer the Federal DBE/ACDBE Good Faith Efforts of your company on this project.
- Name: _____ Title: _____
- Phone Number: _____
10. The Good Faith Effort Plan for Federally Funded Contracts must be approved by the Aviation Department's DBE/ACDBE Liaison Officer prior to award of contract.
11. The Federal DBE/ACDBE Good Faith Efforts Plan is subject to review by the Aviation Department's DBE/ACDBE Liaison, and final approval in determining whether Good Faith Efforts have been made rests with the Aviation Director.

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I FURTHER UNDERSTAND AND AGREE THAT THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

NAME AND TITLE OF AUTHORIZED OFFICIAL: _____

SIGNATURE: _____ DATE: _____

FOR SAN ANTONIO INTERNATIONAL AIRPORT USE ONLY:

Plan Reviewed by _____ Date: _____
Signature of DBE/ACDBE Liaison

Recommendation: Approval: _____ Denial: _____

Action Taken: Approved: _____ Denied: _____

RESPONSE ATTACHMENT E

SIGNATURE PAGE

SIGNATURE PAGE

The undersigned certifies that (s)he is authorized to submit this Proposal on behalf of the entity named below:

Respondent Entity Name

Signature: _____

Printed Name: _____

Title: _____

(NOTE: If Proposal is submitted by Co-Respondents, an authorized signature from a representative of each Co-Respondent is required. Add additional signature blocks as required.)

Co-Respondent Entity Name

Signature: _____

Printed Name: _____

Title: _____

By signature(s) above, Respondent(s) agrees to the following:

1. If awarded a contract in response to this RFP, Respondent will be able and willing to execute a contract in the form shown in the RFP, as attached and set out in RFP Exhibit H, with the understanding that the scope and compensation provisions will be negotiated and included in the final document.
2. If awarded a contract in response to this RFP, Respondent will be able and willing to comply with the insurance and indemnification requirements set out in RFP Exhibits E & F.
3. If awarded a contract in response to this RFP, Respondent will be able and willing to comply with all representations made by Respondent in Respondent's Proposal and during Proposal process.
4. Respondent has fully and truthfully submitted a Litigation Disclosure form with the understanding that failure to disclose the required information may result in disqualification of proposal from consideration.
5. Respondent agrees to fully and truthfully submit a Respondent Proposal and understands that failure to fully disclose requested information may result in disqualification of proposal from consideration or termination of contract, once awarded.
6. To comply with the City's Ethics Code, particularly Section 2-61 that prohibits a person or entity seeking a City contract - or any other person acting on behalf of such a person or entity - from contacting City officials or their staff prior to the time such contract is posted as a City Council agenda item.

Acknowledgement of Prohibition regarding Campaign and Officeholder Contributions

I acknowledge that this contract has been designated a "high-profile" contract.

I further acknowledge that the legal signatory of a high-profile contract, any individual seeking a high-profile contract, any owner or officer of an entity seeking a high-profile contract, the spouse of any of these individuals, and any attorney, lobbyist or consultant retained to assist in seeking contract are prohibited from making a campaign or officeholder contribution from the 10th business day after a contract solicitation has been released until 30 calendar days after the contract has been awarded. I also acknowledge that this contract cannot be awarded to the individual or entity seeking the contract if a prohibited contribution has been made by any of these individuals during the "black out" period.

I warrant that, as of this date, no contributions have been made by these individuals in violation of this prohibition.

RESPONSE ATTACHMENT F

PROPOSAL CHECKLIST

PROPOSAL CHECKLIST

Use this checklist to ensure that all required documents have been included in the proposal and that they are properly tabbed and appear in the correct order.

Tab in Proposal	Document	Initial to Indicate Document is Attached to Proposal
	Respondent Proposal (Response Attachment A)	
1	<ul style="list-style-type: none"> • Table of Contents 	
2	<ul style="list-style-type: none"> • General Information 	
3	<ul style="list-style-type: none"> • References 	
4	<ul style="list-style-type: none"> • Experience and Qualifications 	
5	<ul style="list-style-type: none"> • Proposed Concession Plan <ul style="list-style-type: none"> ○ Concept & Theme Development ○ Design & Quality of Improvements 	
6	<ul style="list-style-type: none"> • Financial Plan and Compensation Schedule 	
7	Discretionary Contracts Disclosure <ul style="list-style-type: none"> • Response Attachment B 	
8	Litigation Disclosure <ul style="list-style-type: none"> • Response Attachment C 	
9	DBE Forms (Response Attachment D) <ul style="list-style-type: none"> * One (1) DBE Form 1 <ul style="list-style-type: none"> • Proof of Certification, if applicable • Joint Venture Documentation, if applicable: <ul style="list-style-type: none"> ○ Joint Venture Agreement ○ Corporate Resolutions ○ Description of Work ○ Certification Affidavit(s) for DBE Venture Partner(s) • Narrative Statement 	
10	Financial Information <i>Provide with ORIGINAL only.</i>	
11	Proof of Insurability <i>Provide with ORIGINAL only.</i> <ul style="list-style-type: none"> • Insurance Provider's Letter • Copy of Current Certificate of Insurance 	
12	Proposal Bond <i>Provide with ORIGINAL only.</i> <ul style="list-style-type: none"> • In similar format as RFP Exhibit G • Associated Power-of-Attorney 	
13	<ul style="list-style-type: none"> * Signature Page (& Resolution, if applicable) <ul style="list-style-type: none"> • Response Attachment E 	
14	Proposal Checklist <ul style="list-style-type: none"> • Response Attachment F 	
	One (1) Original and eight (8) Copies of Proposal and One (1) CD of entire Proposal in Adobe PDF format.	

*** Documents marked with an asterisk on this checklist require a signature. Be sure they are signed prior to submitting proposal.**

RFP EXHIBITS A, B & C

Attached as Separate Documents

RFP Exhibit A - San Antonio International Airport General Site Plan

RFP Exhibit B - San Antonio International Airport Space Locations & Dimensions

RFP Exhibit C – Design Criteria Manual

RFP EXHIBIT D

DBE/ACDBE PROGRAM OVERVIEW AND REQUIREMENTS

DBE/ACDBE PROGRAM OVERVIEW AND REQUIREMENTS

THE ACDBE GOAL FOR NEWS & GIFT CONCESSION is 33.3%

DISADVANTAGED BUSINESS ENTERPRISE CLAUSE

- A. It is the policy of the City of San Antonio that disadvantaged business enterprises (DBEs), as defined under 49 CFR Part 23, shall have “equality of opportunity” to participate in the awarding of federally-assisted Aviation Department contracts and related subcontracts, to include sub-tier subcontracts. This policy supports the position of the U.S. Department of Transportation (DOT) in creating a level playing field and removing barriers by ensuring nondiscrimination in the award and administration of contracts financed in whole or in part with federal funds under this contract. Therefore, on all DOT-assisted projects the ACDBE program requirements of 49 CFR Part 23 applies to the contract.
- B. The Respondent agrees to employ good-faith efforts (as defined in the Aviation Department’s DBE Program) to carry out this policy through award of subcontracts to disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of the Aviation Department Contract, and/or the utilization of DBE/ACDBE suppliers where feasible. Aviation Department respondents are expected to solicit bids from available DBE/ACDBEs on contracts which offer subcontracting opportunities.
- C. Respondent specifically agrees to comply with all applicable provisions of the Aviation Department’s DBE Program. The DBE Program may be obtained through the airport’s DBE/ACDBE Liaison Officer at (210) 207-3505 or by contacting the City’s Aviation Department.
- D. ***Notification is hereby given that an ACDBE contract specific goal has been established on this contract.*** The applicable ACDBE goal is 33.3% of the total gross revenues of this contract for Specialty Retail Concessions.
- E. The Respondent shall appoint a high-level official to administer and coordinate the Respondent’s efforts to carry out the DBE/ACDBE Policy and Program requisites. The Respondent’s official should coordinate and ensure approval of the required “*Good-Faith Effort Plan*” (Response Attachment D - **DBE/ACDBE Form 1**).
- F. The Respondent shall maintain records, as specified in the audit and records section of the contract, showing: (i) all subcontract/supplier awards, specifically awards to DBE/ACDBE firms; (ii) specific efforts to identify and award such contracts to DBE/ACDBEs; and (iii) submit when requested, copies of executed contracts to establish actual DBE/ACDBE participation.
- G. The Respondent shall agree to submit periodic reports of subcontract and/or supplier awards to DBE/ACDBE firms in such form and manner and at such times as the Aviation Department shall prescribe and shall provide access to books, records, and accounts to authorized officials of the City, Aviation Department, state, and/or federal agencies for the purpose of verifying DBE/ACDBE participation and good-faith efforts to carry out

the DBE/ACDBE Policy and Program. All Aviation Department Respondents may be subject to a post-contract DBE/ACDBE audit. Audit determination(s) may be considered and have a bearing in the evaluation of a Respondent's good-faith efforts on future airport contracts.

- H. All concession Respondents with contracts subject to formal review and approval shall make good-faith efforts (as defined and approved by the City through the Aviation Department in its DBE/ACDBE Program) to subcontract and achieve the applicable contract specific DBE/ACDBE goal with certified DBE/ACDBEs. Respondents failing to achieve the applicable contract specific DBE/ACDBE goal or Respondents failing to maintain the specific DBE/ACDBE goal percentage involvement initially achieved, will be required to provide documentation demonstrating that they have made good-faith efforts in attempting to do so through the submittal of an Aviation Department approved *"DBE/ACDBE Good-Faith Effort Plan"*. *Respondents are required to satisfy applicable DBE/ACDBE program requirements prior to the award of the Aviation Department contract.* Respondents must submit a *DBE Good-Faith Effort Plan* or they will be considered non-responsive.
- I. The City and Aviation Department encourage the Respondent/Contractor to utilize currently approved and certified DBE/ACDBE firms on the contract for DBE/ACDBE goal achievement and credit purposes. The Aviation Department utilizes the services of the South Central Texas Regional Certification Agency (SCTRCA) to certify DBE/ACDBE eligibility status. Please contact the SCTRCA at 305 E. Euclid, Suite 102, San Antonio, Texas 78212 (210/227-4722) for information regarding DBE/ACDBE trade areas or to apply for DBE/ACDBE status. The Aviation Department accepts DBE/ACDBE certification from any one of the six (6) certifying agencies under the Texas Unified Certification Program (TUCP) – Texas Department of Transportation (TxDOT), North Central Texas Regional Certification Agency (NCTRCA), South Central Texas Regional Certification Agency (SCTRCA), City of Houston, City of Austin and the Corpus Christi Regional Transportation Authority.
- J. The following DBE/ACDBE-related contractual clause shall be applicable and is specifically included as part of the concession contract. Respondents/Contractors shall also include this clause in each subcontract the prime contractor signs with a subcontractor.

"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate".

Additionally, Contractors agree to the following prompt payment and retainage payment clause:

"The Prime Contractor agrees to pay each subcontractor under this Prime Contract for satisfactory performance of its Contract no later than thirty (30) days from the receipt of each payment the Prime Contractor receives from the City of San Antonio. The Prime Contractor

further agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval from the City of San Antonio. This Clause applies to both DBE/ACDBE and non-DBE/ACDBE subcontractors".

- K. All changes to the list of subcontractors submitted with the bid and approved by the City or Aviation Department, including major vendors, shall be submitted for review and approval by the Aviation Department's DBE/ACDBE Liaison Office. Response Attachment D - DBE Form 3, *Change of Subcontractors/Suppliers* is to be completed and submitted to Aviation Department officials for approval when adding, changing, or deleting subcontractors on airport projects. *Contractors shall make a good-faith effort to replace DBE/ACDBE subcontractors unable to perform on the contract with another DBE/ACDBE.*
- L. Failure or refusal by a Respondent or Contractor to comply with the DBE/ACDBE provisions herein or any applicable provisions of the DBE/ACDBE Program, either during the solicitation process or at any time during the term of the Contract, may constitute a material breach of Contract, whereupon the Contract, at the option of the Aviation Department, may be cancelled, terminated, or suspended in whole or in part, and the Contractor may be debarred from further contracts with the City of San Antonio.

COUNTING JOINT VENTURES

Joint Ventures do not have to be fifty-one percent (51%) DBE owned in order to be counted toward the participation goal. *Joint ventures that do not include any DBE firms will not count toward the goal.* A joint venture with ownership of DBE partners in any percentage will be counted for that percentage equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces, (provided the DBE ownership is real and substantial and the DBEs are performing a commercially useful function).

The required documentation to be submitted to the City, along with the proposal, for Joint Ventures with DBE partners shall include:

- a. The Joint Venture Agreement for the specific contract including a detailed statement of ownership.
- b. Corporate resolutions or other documents authorizing the firms to enter into the Joint Venture.
- c. A description of the work to be performed by all the Joint Venture Partners.
- d. Proof of current certification status of the individual DBE venture partners.

RECONSIDERATION MECHANISM

The Aviation Department's DBE/ACDBE Liaison will evaluate the "good faith efforts" of a firm. If after reviewing the good faith efforts submitted by Proposer, the DBE/ACDBE Liaison determines that the Respondent has failed to adequately document its good faith efforts, then the Respondent shall have the opportunity to provide written documentation or argument, to the Aviation Director, concerning the issue of whether it met the goal or made adequate good faith

efforts to do so. The Respondent will have the opportunity to meet in person with the Aviation Director to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Aviation Director will provide a written decision on reconsideration explaining the basis of his decision. In cases of dispute, the final decision in determining whether Good Faith Efforts have been made rests with the Aviation Director.

The Aviation Director may determine that the efforts of the Respondent substantially comply with the purpose of this program and such determination is in the best interest of the DBE/ACDBE Program and the City. However, if the Aviation Director determines that the Respondent did not make good faith efforts to meet the goal, the decision is not administratively appealable to the Department of Transportation.

COMPLIANCE

If a Respondent is awarded a contract:

1. The bidder/respondent must not terminate for convenience a DBE/ACDBE subcontractor (or an approved substitute DBE/ACDBE firm) and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without the City's prior written consent. When a DBE/ACDBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the bidder/respondent must notify the City immediately of the DBE/ACDBE's inability or unwillingness to perform and provide reasonable documentation.
2. The Respondent will be required to make good faith efforts to find another DBE/ACDBE to perform at least the same amount of work under the contract as the DBE/ACDBE that was terminated, to the extent needed to meet the contract goal the City has established for this contract. The Respondent will be required to obtain the DBE/ACDBE Liaison's prior approval of the substitute DBE/ACDBE, through the submittal of Change of Subcontractors/Suppliers (Response Attachment D - **DBE/ACDBE Form 3**) and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the Respondent fails or refuses to comply in the time specified, our office may issue a termination for default.

CONTRACT REQUIREMENTS

The goals on this contract shall also apply to amendments that require work beyond the scope of services originally required to accomplish the project. The Respondent is asked to make "good faith efforts" to obtain DBE/ACDBE participation for additional scope(s) of services. Amendments that do not alter the type of service originally required to accomplish the project may be undertaken using the subcontractor and suppliers already under contract to the prime contractor. Any amendment affecting the scope of service or value of the contract should be documented on a form acceptable to the City.

RFP EXHIBIT E
INSURANCE REQUIREMENTS

If selected to provide the services described in this RFP, Respondent shall be required to comply with the insurance requirements set forth below:

INSURANCE

- A) Prior to the commencement of any work under this Contract, Concessionaire shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the Aviation Department, 9800 Airport Boulevard, San Antonio, Texas 78216, Attn: Aviation Director, which shall be clearly labeled “***Airport News & Gift Concession, Terminals 1 & B***” in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent’s original signature, including the signer’s company affiliation, title and phone number, and be mailed, with copies of all endorsements, directly from the insurer’s authorized representative to the City. The City shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by the City’s Aviation Department. No officer or employee, other than the City’s Risk Manager, shall have authority to waive this requirement.
- B) The City reserves the right to review the insurance requirements of this Article during the effective period of this contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City’s Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will City allow modification whereupon City may incur increased risk.
- C) A Concessionaire’s financial integrity is of interest to the City; therefore, subject to Consultant’s right to maintain reasonable deductibles in such amounts as are approved by the City, Concessionaire shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Concessionaire’s sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best’s rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation 2. Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
3. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations *b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence If AOA operation is required, \$5,000,000 per occurrence is necessary.
5. Property including Improvements and Betterments coverage	Must maintain all risk property insurance in the amount of the full replacement cost of the business personal property.
6. Liquor Liability (if applicable)	Not less than \$2,000,000.00 per occurrence
7. Builders Risk (if applicable during construction/renovation)	

* if applicable

D) The City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Concessionaire shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Concessionaire shall pay any costs incurred resulting from said changes. All notices shall be given to the City at the following address:

City of San Antonio
Aviation Department
Airport News & Gift Concession, Terminals 1 & B
9800 Airport Boulevard
San Antonio, Texas 78216

F) Concessionaire agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name the City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- G) Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Concessionaire shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Concessionaire's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- H) In addition to any other remedies the City may have upon Concessionaire's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Concessionaire to stop work hereunder, and/or withhold any payment(s) which become due to Concessionaire hereunder until Concessionaire demonstrates compliance with the requirements hereof.
- I) Nothing herein contained shall be construed as limiting in any way the extent to which Respondent may be held responsible for payments of damages to persons or property resulting from Concessionaire's or its subcontractors' performance of the work covered under this agreement.
- J) It is agreed that Concessionaire's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this contract.
- K) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.
- L) Concessionaire and any Subcontractors are responsible for all damage to their own equipment and/or property.

RFP EXHIBIT F

INDEMNIFICATION REQUIREMENTS

If selected to provide the services described in this RFP, Respondent shall be required to comply with the indemnification requirements set forth below:

INDEMNIFICATION

Concessionaire covenants and agrees to **FULLY INDEMNIFY and HOLD HARMLESS** the City and the elected officials, employees, officers, directors, volunteers and designated management representatives of the City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind or nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, or resulting from or related to Concessionaire's activities under this Agreement, including any acts or omissions of Concessionaire, any agent, officer, director, representative, employee, consultant, contractor or subcontractor of Concessionaire and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this Agreement, all without however, waiving any governmental immunity available to the City under Texas law and without waiving the defenses of the parties under Texas law. **IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND DESIGNATED MANAGEMENT REPRESENTATIVES OF CITY, UNDER THIS AGREEMENT.** The provisions of this INDEMNITY are solely for the benefit of the parties hereto and the list of additional insureds set forth herein and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Concessionaire shall promptly advise the City in writing of any claim or demand against the City or Concessionaire known to Concessionaire related to our arising out of Concessionaire's activities under this Agreement and shall see to the investigation and defend of such claim or demand at Concessionaire's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Concessionaire of any of its obligations under this Section. It is the EXPRESS INTENT of the parties to this Agreement, that the INDEMNITY provided in this Section, is an INDEMNITY extended by Concessionaire to INDEMNIFY, PROTECT and HOLD HARMLESS, the City from the consequences of the City's OWN NEGLIGENCE. Concessionaire further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the City and its elected officials, employees, officers, directors, volunteers and designated management representatives, in connection with any such injury, death or damage for which this INDEMNITY shall apply, as set forth in this Section.

RFP EXHIBIT G
PROPOSAL BOND FORMAT SAMPLE

PROPOSAL BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
(Name and Address of Proposer)

hereinafter called the Principal, and _____

a corporation or firm duly authorized to transact surety business in the State of Texas and listed in the current notice of the Department of Treasury list of companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, hereinafter called the Surety, are held and firmly bound unto the **City of San Antonio, Texas**, a Texas Municipal Corporation, hereinafter called the Obligor, in the amount of (*enter value of bond*) (Note to Respondent: Bond should be in the amount of either 50% of the proposal Minimum Annual Guarantee (MAG) or TEN THOUSAND DOLLARS (\$10,000.00), which ever is greater) as a guarantee, the payment of which sum will and truly be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a proposal for Airport News & Gift Concession Terminals 1 & B at the San Antonio International Airport.

WHEREAS, the Successful Proposer shall be executing one contract for the performance of its obligations to the Obligor. (hereinafter referred to as "the Contract".) Such penal sum shall serve the Principal's duty to enter into the Contract and furnish such bonds and other instruments as may be specified in the Contract Documents.

NOW THEREFORE, if the Obligor shall award the Contract to the Principal and the Principal shall enter into the Contract in writing with the Obligor in accordance with terms of such bid or proposal, and furnish such bonds and other instruments as may be specified in the Contract Document with good and sufficient Surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, then this bond shall be null and void. If in the event of failure of the Principal to execute such Contract and furnish such bonds and other instruments required by the Contract Document within fifteen (15) days after the date of transmittal of the Contract Document to the Principal for execution, this bond shall become the property of the Obligor, without recourse of the Principal and/or the Surety, not as a penalty, but as liquidated damages.

Signed this _____ DAY of _____ A.D., 20____.

By: _____
(Principal)

(Signature and Title)

*By: _____
(Surety)

(Attorney-in-fact)

*Attach Power of Attorney for Surety's for Attorney-in-Fact with "live seal".

Surety Seal

DISCLOSURE OF GUARANTY FUND NONPARTICIPATION

In the event the Surety is unable to fulfill its contractual obligation under this bond, the Obligor is not protected by an insurance guaranty fund or other solvency protection arrangement.

RFP EXHIBIT H

LEASE AND CONCESSION AGREEMENT DRAFT

Document Posted Separately